



Citation: *LW v Canada Employment Insurance Commission*, 2025 SST 292

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: L. W.
Representative: V. S.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decisions dated January 16, 2025 and February 20, 2025 (GE-24-2729)

Tribunal member: Glenn Betteridge

Decision date: March 27, 2025

File number: AD-25-137

Decision

[1] Leave (permission) to appeal the General Division's Charter challenge decision is refused.¹

[2] Leave (permission) to appeal the General Division's voluntary leaving decision is refused.²

[3] This means the appeal will not go forward.

Overview

[4] L. W. is the Claimant. She wants permission to appeal two General Division decisions. I can give her permission if either of her appeals has a reasonable chance of success.

[5] The Claimant argued she quit her part-time job because it didn't provide a living wage. She said she was getting so few hours it didn't count as "employment." So the Canada Employment Insurance Commission was wrong to deny her benefits for quitting her job without just cause under section 29 of the *Employment Insurance Act* (EI Act).

[6] The General Division dismissed her Charter challenge to section 29 of the EI Act. She argued that section infringed the Charter section 12 guarantee against cruel and unusual punishment. The General Division decided her Charter challenge Notices didn't outline a valid constitutional argument.³

[7] With her appeal of that decision the Claimant might be trying to improve her Notices or argue her Charter case. But her reasons for appealing the Charter challenge decision don't make sense—logically or legally.

¹ Decision of General Division Member Natalie Leger, dated January 16, 2025 (Charter challenge decision).

² Decision of General Division Member Adam Picotte, dated February 20, 2025 (voluntary leaving decision).

³ She filed two notices, which the General Division called the Notice and the Amended Notice. I refer to them as the Notices.

[8] A different General Division member dismissed her appeal of the Commission's decision to disqualify her because she voluntarily left her job without just cause. The General Division decided she had a reasonable alternative to quitting her job when she did. She could have stayed at the job and looked for work. I call this the "voluntary leaving" decision.

[9] The Claimant argues the General Division didn't follow procedural fairness and made an important factual error when it dismissed her appeal.

[10] Unfortunately for the Claimant, neither of her appeals has a reasonable chance of success.

Issues

[11] I have to decide two issues.

- Does the Claimant's appeal of the Charter challenge decision have a reasonable chance of success?
- Does the Claimant's appeal of the voluntary leaving decision have a reasonable chance of success?

I am not giving the Claimant permission to appeal either General Division decision

[12] I read the Claimant's applications to appeal.⁴ I read the General Division decision. I reviewed the documents in the General Division file.⁵ And I listened to the recordings of the adjourned hearing and the voluntary leaving hearing.⁶ Then I made my decision.

[13] For the reasons that follow, I am not giving the Claimant permission to appeal.

⁴ See AD1 and AD1B. In AD1 the Claimant didn't appeal the Charter challenge decision. But at the end of the voluntary leaving hearing, she said she was going to appeal the Charter challenge decision. I wrote to her and gave her another opportunity to do that. She responded with AD1B.

⁵ See GD2 to GD4 and GD6 to GD24.

⁶ The voluntary leaving hearing lasted approximately 50 minutes.

The permission to appeal test screens out appeals that don't have a reasonable chance of success⁷

[14] I can give the Claimant permission to appeal if her appeal has a reasonable chance of success.⁸ This means she has to show an **arguable ground of appeal** upon which her appeal **might succeed**.⁹

[15] I can consider four grounds of appeal, which I call **errors**.¹⁰ The General Division:

- used an unfair process or wasn't impartial (a procedural fairness error)
- didn't use its decision-making power properly (a jurisdictional error)
- made a legal error
- made an important factual error

[16] The Claimant's reasons for appealing each decision set out the key issues and central arguments I have to consider.¹¹ Because the Claimant is representing herself, I will also look beyond her arguments when I apply the permission to appeal test.¹²

No arguable case the General Division made an error in the Charter challenge decision

[17] The Claimant's reasons for appealing the Charter challenge decision don't show an arguable case the General Division made an error.

⁷ See *Paradis v Canada (Attorney General)*, 2016 FC 1282 at paragraph 32.

⁸ See section 58(2) of the *Department of Employment and Social Development Act* (DESD Act).

⁹ See *Osaj v Canada (Attorney General)*, 2016 FC 115.

¹⁰ See section 58(1) of the DESD Act.

¹¹ See *Hazaparu v Canada (Attorney General)*, 2024 FC 928 at paragraph 13.

¹² The Federal Court has said the Appeal Division should not apply the leave to appeal test mechanistically and should review the General Division record. See for example *Griffin v Canada (Attorney General)*, 2016 FC 874; *Karadeolian v Canada (Attorney General)*, 2016 FC 615; and *Joseph v Canada (Attorney General)*, 2017 FC 391.

[18] The Claimant's reasons for appealing the Charter challenge decision don't explain any errors I can consider. Her reasons don't make sense—logically or legally.

[19] She refers to facts in the appeal, quotes paragraphs of the General Division decision, and includes references to decided court cases. She uses legal sounding headings and phrases like legal blindness, misdirected herself erroneously hereunder, constitutional nullification, and paramountcy. But these words and phrases are used out of context. And her reasons don't engage with the General Division's Charter challenge decision or the law it had to apply.

[20] The Claimant might be trying to improve her Notices. Or she might be trying to argue her Charter challenge, or trying to reargue the voluntary leaving appeal.

[21] When a claimant doesn't explain or give details about an alleged error, that ground of appeal has no reasonable chance of success.¹³ And the Appeal Division application process isn't a do-over or the Claimant's chance to argue the Charter challenge the General Division refused to hear because her Notices were insufficient.

[22] The Claimant has the onus of showing her appeal a reasonable chance of success. She hasn't done that.

[23] I reviewed the Claimant's Notices and the General Division's Charter challenge decision. I didn't find an arguable case the General Division made an error the law lets me consider. The General Division identified the issue it had to decide (paragraph 5). It set out the correct legal test to decide that issue, including court cases it has to follow (paragraphs 7 to 15). Then it applied that test to the Claimant's Charter challenge Notices. And its reasons are adequate.

[24] This means the Claimant's appeal of the Charter challenge decision doesn't have a reasonable chance of success.

¹³ See *Twardowski v Canada (Attorney General)*, 2024 FC 1326 at paragraph 59.

No arguable case the General Division made an error in the voluntary leaving decision

[25] The Claimant checked the box that says the General Division didn't follow procedural fairness.¹⁴ In her reasons she says she did seek permission from the Commission.¹⁵ And the Commission didn't respond.

[26] These reasons allege a Commission error—not an error the General Division made. This means the Claimant hasn't shown an arguable case the General Division procedure was unfair.

[27] The Claimant also argues the General Division made an important factual error in paragraph 21, when it wrote that she argued her father could support her.¹⁶

[28] I listened to the General Division hearing. The Claimant gave sworn testimony that, "... and I do have, had support from my father hence why I could, why I could just leave."¹⁷

[29] This shows me the General Division didn't make an important error of fact, for two reasons. First, and most important, the fact the Claimant's father could offer her support wasn't relevant to the legal test for quitting a job with just cause. So this fact made no difference to the General Division decision. The General Division made this point in the last sentence of paragraph 21. Second, the General Division didn't misunderstand what the Claimant said.

[30] The Claimant also seems to argue the General Division made a legal or important factual error when it dismissed her appeal even though it accepted, "... her hours were not sufficient to support her and that her permanent role didn't give her with

¹⁴ See AD1-4.

¹⁵ See AD1-10.

¹⁶ Here is the complete text of paragraph 21 of the voluntary leaving decision: "During the hearing, the Appellant argued that her father could support her and as a result, she felt she was in a position to leave her employment. However, this does not amount to just cause."

¹⁷ Listen to the recording of the General Division hearing at 40:43.

enough hours to support her... was not an economically viable situation” (paragraph 23).

[31] This doesn’t show the General Division made a legal or important factual error.

[32] The fact her job paid too little to live on doesn’t mean the Claimant had just cause for quitting. That circumstance didn’t prevent her from looking for other work. The law says she had an obligation to do that. The General Division used this law (paragraph 24).

[33] The General Division’s voluntary leaving decision is supported by the law and the facts.

[34] The courts have said EI benefits are for people who are involuntarily unemployed. The General Division made this point (paragraph 24). The Claimant wasn’t involuntarily unemployed. She chose to quit her job even though she had a reasonable alternative to quitting—as the General Division correctly found in paragraph 23 of the voluntary leaving decision. And she admitted that she made that choice because she had support from her father.

[35] The Claimant is self-represented. So, I looked for an arguable case the General Division made another type of error in its voluntary leaving decision.

[36] I reviewed the General Division documents, the law, and the voluntary leaving decision. And I listened to the hearing. I didn’t find an arguable case the General Division made a legal error, an important factual error, a jurisdictional error, wasn’t impartial, or used an unfair process.

Conclusion

[37] The Claimant hasn't shown an arguable case the General Division made an error that might change the outcome in her appeals. And I didn't find an arguable case.

[38] This tells me her appeals of the General Division's Charter and voluntary leaving decisions don't have a reasonable chance of success. So I can't give her permission to appeal either decision.

Glenn Betteridge
Member, Appeal Division